

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MAYRA RENDON,

Defendant.

**8:21CR284****ORDER**

This matter is before the Court on defendant Mayra Rendon’s (“Rendon”) *pro se* Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Filing No. 361). Rendon raises four grounds for relief, including that she “was denied her right to a direct appeal” because her appointed counsel, Michael J. Hansen (“Hansen”), failed to discuss that issue with her and to return her calls. *See United States v. Sellner*, 773 F.3d 927, 930 (8th Cir. 2014) (“An attorney’s failure to file a notice of appeal upon the client’s request constitutes ineffective assistance of counsel, and no specific showing of prejudice is required.”).

The government opposes Rendon’s § 2255 motion but concedes “[t]he record at this point does not conclusively establish whether [she] asked defense counsel to file a notice of appeal.” Noting the Court will have to “evaluate the credibility of Rendon and her counsel” to resolve that issue, the government states the Court should hold an evidentiary hearing at which both Rendon and her counsel can testify. *Cf. Sellner*, 773 F.3d at 930 (explaining the need for an evidentiary hearing to resolve conflicting accounts that are credible on their face); 28 U.S.C. § 2255(b) (requiring a hearing “[u]nless the motion and the files and records of the case conclusively show that the prisoner is” not entitled to relief).

Under Rule 8(c) of the Rules Governing Section 2255 Proceedings, when, as here, the Court finds (1) “an evidentiary hearing is warranted” and (2) the petitioner qualifies for appointed counsel under 18 U.S.C. § 3006A, the Court must appoint counsel to represent her. *See also Green v. United States*, 262 F.3d 715, 718 (8th Cir. 2001).

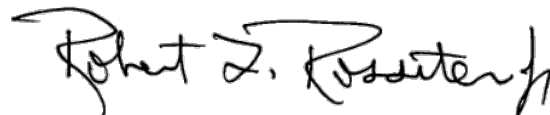
Based on the foregoing,

IT IS ORDERED:

1. An evidentiary hearing on defendant Mayra Rendon’s 28 U.S.C. § 2255 motion is set for January 17, 2024, at 1:30 p.m. in Courtroom No. 4, Roman L. Hruska Federal Courthouse, 111 S. 18th Plaza, Omaha, Nebraska 68102.
2. The Federal Public Defender for the District of Nebraska is appointed to represent Rendon at the hearing. If the Federal Public Defender accepts this appointment, the Federal Public Defender shall promptly file an appearance in this matter. If the Federal Public Defender should decline this appointment because of a conflict of interest or on the basis of the Amended Criminal Justice Act Plan, the Federal Public Defender shall provide the Court with a draft appointment order (CJA Form 20) bearing the name and other identifying information of the CJA Panel attorney identified in accordance with the Amended Criminal Justice Act Plan for this district.
3. The Clerk of Court shall provide a copy of this order to the Federal Public Defender.
4. The Court will arrange for Rendon to participate by phone. Counsel and Hansen will appear in person.
5. The parties may call other witnesses and present other pertinent evidence at the hearing.

Dated this 6th day of November 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.  
Chief United States District Judge